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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,977	03/19/2002	Francis Emmerson	042933/308282	5510
826 7590 01/29/2007 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER BAYERL, RAYMOND J	
			ART UNIT 2173	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/29/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/099,977	Applicant(s) EMMERSON ET AL.	
	Examiner Raymond J. Bayerl	Art Unit 2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final:
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 - 18, 20 - 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 - 18, 20 - 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 13 – 18, 20 – 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roke Manor Research Limited (“Roke Manor”; GB #2 349 548 A) in view of Red Fig Limited (“Red Fig”; GB #2 344 491 A).

As per independent claim 13, directed to a “client-server system” (see also the “client terminal” of independent claim 14), Roke Manor’s Downloading software to mobile telecommunication users discloses a “client terminal” having a “portable radio communication device” and “authentication means” comprising “means for checking the validation data of the content downloaded from the server”. As seen in fig 1, network subscribers 16 using a variety of mobile communication devices such as mobile phone or PDAs are permitted to contact a network operator 12 via a base station (see page 4, paragraphs 1, 2), so that software is sent to the subscriber site. Then, “content downloaded from the server” is subject to “validation” by “checking”, by means of an authentication code which enables the Java™ class software to run. In receiving this authentication code, the Roke Manor “device” receives “validation data” such that the received software is to be “identifiable by said authentication means as originating from the said server”, since only the correct “server” for Roke Manor’s software would have the correct authentication code. By this data, the client knows that it is dealing with the actual and proprietary network operator, and not some entity that might have produced a retransmission of the code *per se* for the software.

Roke Manor further teaches the use of “menu applications” that provide “a user selectable direct download link”, in the form of a list that may appear in a menu type format (page 5, paragraph 3). Such a list will invariably appear as “a sub-menu” in the overall “menu” hierarchy of the mobile communication device.

Once the Roke Manor subscriber 16 has made a selection, it is properly enabled by the authentication code, which permits the “client terminal” to know that the “user” is properly established in accepting and running the software that has been “downloaded” as “content” from the “server”, which is ultimately the network operator 12’s interface with the user.

The overall “content” transmission in Roke Manor may be further characterized as simply “content which comprises validation data and other data stored at the server”, since the authentication code is part of that “content” transmission. The communications established in Roke Manor are essentially a connection of the network operator 12 with a mobile telecommunications device 16 (fig 1), for both “validation” and “other data stored at the server”, and the traffic between these two network entities is such that the “validation data and the other data are downloaded from the server together in a single data stream”, when “data stream” is reasonably interpreted as to refer to the communications pathway that exists to connect to network operator 12, and “downloaded...together” is interpreted as the coexistence of the two kinds of “content” that are delivered from network operator 12 to device 16.

Roke Manor, while identically disclosing the use of a Java™ platform for retrieved software, does not **explicitly** teach that a “browser application controls the

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radio communication device to transmit a signal to connect to the server". However, Red Fig specifically discloses Browsing the Internet using a mobile telephone, so as to obtain Variable data for HTML pages, accessed via a URL (Abstract). A server process 30 in Red Fig (see pages 7 – 8; fig 2) responds to the URL. HTML pages are an example of "content" that may be directly "downloaded from the server" in Red Fig.

Thus, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to operate the user-selectable interface for software retrieval found in Roke Manor via Red Fig's "browser", so that the standard formats of both HTML and Java would have a well-understood channel by which to pass, in obtaining "content" at a "radio communication"-linked site.

When Roke Manor has acquired, authenticated, and installed the software obtained by a subscriber, "storing the downloaded content to a memory of the terminal" takes place, as "default" (claims 15, 21). This "content is installed", as in claims 35 – 39.

In the combination of Roke Manor and Red Fig, a "download transport protocol" of "HTTP" is used (as in Red Fig), and Roke Manor's use of an authentication code reads upon the claimed "header" (claims 16, 22 - 24), since in an HTTP environment such as Red Fig's, the code for a page has the authentication information incorporated into it in a way that it leads other portions of the page and is a "header".

The Roke Manor authentication code "indicates to the authentication means whether the content is accepted by the portable radio communication device" (claims 25 – 29), since the code is needed to accept and run the "content" that has been

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downloaded. Since the “content” will not run without the authentication code, “the content is rejected by the authentication means” in such a case (claims 30 – 34), when it would not “originate from the server” that should have it in its correct form.

Independent claim 17 contains limitations generally found in independent claims 13, 14 as noted above, including “menu applications” and “a user selectable direct download link” (Roke Manor), along with a “browser application” that “controls the radio communication device to transmit a signal to connect to the server” (Red Fig).

Independent claim 18 is rejected for a similar line of reasoning to that developed for claim 17, with its “checking security of the content” further reading upon Roke Manor’s authentication code. This ability to “determine whether or not the downloaded content is from a trusted server” (independent claim 20) has been treated with respect to claim 13 above—in authenticating at the receiving end the user’s entitlement to operate the software, Roke Manor is also allowing the “client terminal” to verify that the sender is indeed the one intended; that of the network operator.

3. Applicant's arguments filed 9 January 2007 have been fully considered but they are not persuasive.

At page 9, applicant argues that “the combination of Roke Manor and Red Fig, at best, discloses that the software of Roke Manor (alleged other data) is broadcast to the device 16 from digital broadcaster 14....However, Roke Manor does not teach or suggest that the authentication code, (alleged validation data), disclosed therein, is broadcast to the device 16 by digital broadcaster 14. Rather, the combination of Roke Manor and Red Fig, at best, discloses that the network operator 12 transmits the

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authentication code to the device 16 of a subscriber, via a GSM base station 18", which runs contrary to "the software...and the authentication code...are stored and downloaded from the *same server together* in a *single data stream*, as claimed".

But while the Examiner appreciates that the host devices that are directly connected to the Roke Manor device 16 appear to differ, based on whether it is the program or authentication code that is being sent, it remains that the server behind both kinds of transmission is just the one for network operator 12. There is a "single data stream" that can be found interconnecting the 12 and 16 units of Roke Manor, even though the details of the path may vary. Over the connections that are established in Roke Manor, both software and authentication code are sent between these devices; the data is "downloaded from the server together". Given that the claims do not rule out such an interpretation, the claims therefore continue to read upon the prior art, since the Examiner is not permitted to "read in" the details of communications that applicant seeks in the response.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (571) 272-4045. The examiner can normally be reached on M - Th from 9:30 AM to 4:30 PM ET.

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached at 571-272-4063. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (571) 273-8300.

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6. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.



RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

22 January 2007